

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Petition for Waiver of Pricing Flexibility Rules	)	
For fast packet Services	)	
	)	WCB Docket No. 04-246
Petition for Forbearance Under 47 U.S.C.	)	
Section 160(c) from Pricing Flexibility Rules	)	
For fast packet Services	)	

**DECLARATION OF THOMAS F. MAGUIRE**

**I. QUALIFICATIONS**

1. My name is Thomas F. Maguire. My business address is 125 High St., Boston, MA 02110. I have over 22 years experience in the telecommunications industry, primarily in the fields of product management and development. Currently, I am the Group Manager for Frame Relay Offer Management in Verizon's Enterprise Solutions Group. I have served in this capacity for 7 years. As Group Manager, I am responsible for product management, pricing, offer planning and development, lifecycle management, forecasting, and market program prioritization for the Frame Relay Services Verizon offers to its largest commercial and government customers. In addition, I am responsible for developing customer specific pricing strategies and contract terms for our most competitive Frame Relay opportunities. I have first-hand knowledge of the case study examples of specific competitive opportunities provided herein. I received a Bachelor of Science in Business Administration from Providence College, a Masters in Business Administration from Suffolk University, and a Masters in Public Affairs from the University of Massachusetts.

**II. PURPOSE AND SUMMARY**

2. The purpose of the Declaration is twofold. First, this Declaration refutes AT&T's claim that there is a significant "local" market for fast packet services such as Frame Relay and ATM.<sup>1</sup> Instead, the customers that buy the vast majority of these fast packet services are national in scope and almost always purchase interstate services to serve all of their locations throughout the country. Second, this Declaration rebuts claims that

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<sup>1</sup> AT&T Opposition to Verizon's Petitions for Waiver or, Alternatively, Forbearance to Allow it to Exercise Pricing Flexibility for Fast Packet Services, WCB Docket. No. 04-246, at 19-20 (filed Aug. 3, 2004).

Verizon has not shown any evidence that it has been competitively disadvantaged by the lack of pricing flexibility. This Declaration explains the hardships caused by the lack of pricing flexibility and provides case studies of business opportunities that Verizon missed due to an inability to offer customized solutions.

### **III. THERE IS NO SIGNIFICANT “LOCAL” MARKET FOR FAST PACKET SERVICES.**

3. AT&T asserts (at 19) that there is a significant “local” market for fast packet services. AT&T is wrong. The demand for intraLATA fast packet services is limited to very few industries such as public school systems (K-12) and county governments. Instead, most customers that buy local services also purchase long distance components. AT&T, Sprint, and MCI have long dominated this market segment because they could sell advanced services to these customers that included both the “local” and “long distance” portions as a single service.<sup>2</sup> That is why Verizon and other former Bell companies historically have been small players in this market, because they only recently obtained the authority to provide long distance services.

4. Enterprise customers in particular are sophisticated and accustomed to customized solutions independent of regulatory boundary considerations (*e.g.* LATA boundaries). These customers generally have traffic requirements that are not “LATA-bound”. Indeed, the businesses that buy the vast majority of these services are national in scope and therefore almost always purchase interstate services to serve all of their locations throughout the country. In addition, business customers increasingly have located their host sites, which provide disaster recovery functionality, in separate locations due to post-9/11 security concerns. In order to optimize connectivity with these off-site (and even out of state) host sites, customers require long distance fast packet services. For these reasons, most business customers look for a single, national carrier to provide all of their fast packet services.

5. Available evidence on revenues for fast packet services further demonstrates that there is no significant “local” market. Nearly 85% of revenue opportunity within ATM and Frame Relay services is in the long distance market.<sup>3</sup> As displayed in the independent national market assessment chart below compiled by the International Data Corporation (IDC) in March 2003, virtually all of the Frame Relay and ATM revenues are in the long distance market.

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<sup>2</sup> *Memorandum at 8-9; see Competition in the Provision of Voice Over IP and Other IP-Enabled Services, Report Prepared for and Submitted by BellSouth, Qwest, SBC, and Verizon, Appendix A: Broadband Competition: May 2004, A-19, WC Docket No. 04-36 (May 28, 2004) (“BOC Broadband Report”) (“AT&T, MCI, and Sprint collectively “hold 79% and 60% of the Frame Relay and ATM markets, respectively,” while “Verizon holds only 4.9% and 5.1% of those same markets.”).*

<sup>3</sup> *BOC Broadband Report at 24 (citing M. Bowen, et al., Schwab Soundview Capital Markets, AT&T Corp. at 2 (Jan. 21, 2004)).*

U.S. Frame Relay Service Revenue by Segment, 2001-2007 (\$M)<sup>4</sup>

	2001	2002	2003	2004	2005	2006	2007
Local	\$1,082.6	\$1,104.3	\$1,126.2	\$1,171.5	\$1,230.1	\$1,291.4	\$1,316.7
<b>LD</b>	<b>\$6,189.3</b>	<b>\$6,251.5</b>	<b>\$6,313.5</b>	<b>\$6,503.4</b>	<b>\$6,736.2</b>	<b>\$7,033.6</b>	<b>\$7,154.8</b>
Total	\$7,271.9	\$7,355.8	\$7,439.8	\$7,674.9	\$7,993.2	\$8,325.1	\$8,471.5
% LD to Total	85%	85%	85%	85%	84%	84%	84%

U.S. ATM Revenue by Segment, 2001-2007 (\$M)<sup>5</sup>

	2001	2002	2003	2004	2005	2006	2007
Local	\$212.5	\$253.9	\$303.6	\$362.3	\$423.4	\$483.2	\$577.1
<b>LD</b>	<b>\$1234.1</b>	<b>\$1433.5</b>	<b>\$1680.7</b>	<b>\$1969.8</b>	<b>\$2300.9</b>	<b>\$2657.0</b>	<b>\$3014.2</b>
Total	\$1446.6	\$1687.4	\$1984.3	\$2,332.1	\$2,724.3	\$3150.2	\$3591.3
% LD to Total	85%	85%	85%	84%	84%	84%	84%

While these revenue data are split between “local” and “long distance, as noted above, almost no customers purchase purely local fast packet services. Rather, most customers purchase both components as a single service. Given the extremely limited market for “local” fast packet services, Verizon’s and other ILECs’ stake in a local market would be irrelevant to understanding the actual state of competition in the market for fast packet services.

**IV. AS LONG AS VERIZON LACKS PRICING FLEXIBILITY FOR FAST PACKET SERVICES, IT WILL BE UNABLE TO EFFECTIVELY COMPETE AGAINST IXC’S AND OTHER PROVIDERS**

6. AT&T (at 4-5, 14) and Sprint<sup>6</sup> (at 5) claim that Verizon has not demonstrated that it has suffered any harm from compliance with the rule as written. AT&T also has claimed (at 14-15) that Verizon has not provided a single instance where it has been unable to compete under the current regulatory constraints. These claims are false.

7. Fast packet customers are large and sophisticated enterprise businesses that are accustomed to integrated customer-specific solutions, including customized pricing, flexible terms, and rates that are independent of regulatory boundaries. Currently, Verizon cannot offer any of these options. As a result, Verizon is at a competitive disadvantage and has lost business opportunities to interexchange carriers (“IXCs”) and other providers who are able to offer these customized options.

<sup>4</sup> International Data Corporation, *U.S. Frame Relay Services Forecast, 2002-2007*, March 2003.

<sup>5</sup> International Data Corporation, *U.S. ATM Forecast, 2002-2007*, March 2003.

<sup>6</sup> Opposition of Sprint Corporation, WCB Docket. No. 04-246 at 5 (filed Aug. 3, 2004).

8. For example, Verizon lost one Verizon Enterprise customer, a mid-sized Long Island bank with 95 branches across Long Island and with host centers in New Jersey and New York. Verizon offered discounted long distance Frame Relay service pricing, but was forced to offer the local component of the package under the standard terms and conditions for frame relay in its tariff FCC No. 20. The winning IXC was able to offer flexible contract terms and a customized solution for the entire package, which resulted in monthly savings to the customer of \$18,000 over Verizon's tariffed rates.

9. Similarly, Verizon lost one of its Enterprise Solutions Group customers, a national financial services brokerage firm with 161 sites, because the winning IXC's total Frame Relay solution was 15-20% lower than Verizon's bid. Indeed, three IXCs offered customer specific contract terms and aggressive local and long distance Frame Relay service pricing. Verizon's bid, which could not match these contract rates, therefore, simply was not competitive even with the available volume and term discounts.

10. Verizon also missed an opportunity to provide service to a global financial services brokerage company because Verizon's total package was non-competitive. Although Verizon offered deep discounts on the long distance Frame Relay components, its FCC No. 20 tariff rates for local Frame Relay service were 30% higher than the incumbent IXC's prices.

11. Verizon likewise missed an opportunity to serve a National Bank with 1,400 branch locations, of which 95% were within the Verizon LEC footprint. Verizon was unable offer customer-specific pricing or customized "special assembly" design features offered by competing IXCs. Moreover, customer feedback indicated that Verizon's overall pricing was significantly higher (20%-40%) than all of the quotes provided by the IXCs. Therefore, until Verizon gains pricing flexibility for these fast packet services, it will be unable to compete effectively with the IXCs.

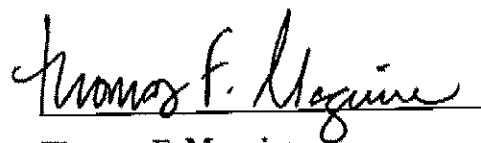
**V. CONCLUSION**

12. Based on the foregoing, AT&T's and the other commenters' claims are unfounded.

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I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.

Executed this 13<sup>th</sup> day of August 2004.

  
Thomas F. Maguire